IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL WRIT PETITION NO. 734 OF 2007

Ms. Sushila Khimji Rambhia ..Petitioner

versus

State of Maharashtra ..Respondents

Mr. Nitin Pradhan, Senior Counsel i/b. Ms. S. D. Khot for the Petitioner.

Dr. F. R. Shaikh. APP for the Respondents - State.

Mr. A. Pande i/b. D. Poonamiya for Alpesh Ajmera for Intervener.

CORAM : D. G. DESHPANDE, &
SMT. NISHITA MHATRE, JJ.

DATE : 13TH JUNE, 2007.

P.C.

1. Heard.

2. Grievance of the petitioner is that Magistrate granted "B" Summary in a complaint filed by the complainant without hearing the petitioner.

3. The admitted legal position is that if at all the Magistrate wants to pass such an order, he

has to hear the petitioner. Mr. Ponda fairly concedes to this legal position.

4. In view of this, order dated 15.7.2006 passed by the Metropolitan Magistrate, 26th Court, Borivli (West), Mumbai in CR No. 46 of 2006, granting "B" Summary, without hearing the petitioner is to be set aside. Therefore, Rule. By consent, Rule returnable forthwith.

5. Impugned order of the Metropolitan Magistrate, 26th Court, Borivli (West), Mumbai in C.R. No. 46 of 2006 is quashed and set aside. The Magistrate to hear the petitioner as early as possible and then pass final order within three months from the date of receipt of this order. Rule answered accordingly. Petition disposed of.

(SMT. NISHITA MHATRE, J.) (D.G. DESHPANDE, J.)